

1982 WL 189384 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 27, 1982

***1 Re: Interpretation of Section 50-1-20**

Eddie L. McGee
Conservation Officer
Post Office Box 436
Clinton, South Carolina 29325

Dear Officer McGee:

You have asked what class or classes of persons are excluded from the definition of 'hunters' and 'hunting' as defined by [Section 50-1-20 of the Code of Laws of South Carolina \(1976\)](#), formerly Section 28-1 of the [Code of Laws of South Carolina \(1962\)](#).

The words 'hunting' or 'hunter' which are used throughout the entire game laws have not been defined by statute in an affirmative sense. That is, our game statutes do not define what a 'hunter' or 'hunting' is. Rather, [Section 50-1-20](#) defines certain persons not to be included as 'hunters' or considered as engaged in 'hunting' when these persons, while they may accompany a 'hunter' are themselves not in possession of a gun and whose sole purpose is to assist those who are hunting by handling dogs or horses or by finding and retrieving birds. In other words, this section excludes only those persons whose sole function is to be a dog handler, horse handler or a bird retriever as a member of a hunting party. This section was not designed to exclude persons who are otherwise 'hunting' but who do not carry a gun. For example, the Legislature recognizes that certain animals (e.g. fox) are often hunted without firearms. See Sections 50-11-400; 50-11-750 of the [Code of Laws of South Carolina \(1976\)](#).

If an individual is otherwise engaged in hunting as defined by our Court as the act of trying to find, seek, obtain, pursue or diligently search for game, [Prosser v. Parsons](#), 245 S.C. 493, 141 S.E.2d 342 (1965), then [Section 50-1-20 of the Code](#) does not exempt that person as a dog or horse handler or a bird retriever.

Your second question asks for a specific definition of a 'fox hunter.' Although our Court has not addressed this specifically, the Supreme Court of Appeals of the Commonwealth of Virginia in upholding a conviction for hunting fox without a license defined the word 'hunt' as:

To search for or follow after as game or wild animal; to chase; to pursue for the purpose of catching or killing; to follow with dogs or guns for sport or exercise; . . . to follow the chase; . . . to course with hounds . . .

The Virginia Court went on to specifically define 'fox hunter' and 'fox hunt' as 'to chase the fox with hounds.' [Commonwealth v. Bailey](#), 124 Va. 800, 97 S.E. 774 (1919).

I trust this information will prove sufficient for your purposes.

Very truly yours

Buford S. Mabry, Jr.
Assistant Attorney General

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